IN THE UNITED STATES DISTRICT COURT EASTERN DISTRICT OF TEXAS SHERMAN DIVISION

HIGH PERFORMANCE WORLD, INC.,	§ §	
Plaintiff,	9 § 8	
v.	\$ §	CIVIL ACTION NO. 4:17-cv-00029
HARTFORD LLOYD'S INSURANCE COMPANY	\$ \$ \$	
Defendant.	§	

NOTICE OF REMOVAL

Defendant Hartford Lloyd's Insurance Company ("Defendant" or "Hartford") files this Notice of Removal and, in support thereof, would show the Court as follows:

- 1. On November 2, 2016, Plaintiff High Performance World, Inc. ("Plaintiff') filed its First Amended Petition (the "Petition") in Cause Number 401-01259-2016, in the 401st Judicial District Court of Collin County, Texas. Defendant was served on December 16, 2016, and filed its answer on January 6, 2017.
- 2. Pursuant to 28 U.S.C. § 1446(a) attached hereto are copies of all process, pleadings and orders served upon Defendant and all pleadings and orders in the removed case. In particular: (i) an index of the matters filed herewith is attached as Exhibit A; (ii) a copy of the citation and executed service return is attached as Exhibit B; (iii) a copy of the Plaintiff's First Amended Petition is attached as Exhibit C; (iv) a copy of Defendant's answer is attached as Exhibit D; (v) a copy of Plaintiff's Second Amended Petition as Exhibit E; (vi) a certified copy of the docket sheet in the state court

action is attached as Exhibit F; (vii) a list of all counsel of record, including addresses, phone numbers, and the parties represented is attached as Exhibit G; and (viii) an Affidavit of Lisa Levin attached as Exhibit H.

- 3. This notice of removal is timely filed under 28 U.S.C. §1446(b) because it is filed within thirty days after Defendant first received a copy of a paper from which it could first be ascertained that the case is one which is or has become removable; *i.e.*, Plaintiff's First Amended Petition.
- 4. The claims asserted against Defendant are civil actions over which this Court has original jurisdiction pursuant to 28 U.S.C. § 1332. At the time this action was commenced, Plaintiff was, and still is a citizen of the State of Texas.¹ Defendant is a "Lloyd's Plan" organized under Chapter 941 of the Texas Insurance Code. A Lloyd's Plan is an unincorporated association of underwriters who sell insurance through an attorney-in-fact or other representative.² The citizenship of a Lloyd's Plan insurer, like all unincorporated associations, is determined by the citizenship of its members.³ Hartford's underwriters are citizens of the states of Connecticut and Illinois.⁴ Thus, Hartford is a citizen and resident of the states of Connecticut and Illinois for purposes of diversity.⁵

¹ See Exhibit C. On information and belief, Plaintiff is a Texas corporation, not an individual.

² TEX. INS. CODE §§ 941.001, 941.051-941.052; Salazar v. Allstate Tex. Lloyd's, Inc., 455 F.3d 571, 572 n.1 (5th Cir. 2006); Royal Ins. Co. of Am. v. Quinn-L Capital Corp., 3 F.3d 877, 882 (5th Cir. 1993), cert. denied, 511 U.S. 1032 (1994).

³ Royal Ins. Co. of Am., 3 F.3d at 882; Cronin v. State Farm Lloyds, No. H-08-1983, 2008 WL 4649653, at *2 (S.D. Tex. Oct. 10, 2008); Massey v. State Farm Lloyd's Ins. Co., 993 F. Supp. 568, 570 (S.D. Tex. 1998).

⁴ Exhibit G, Affidavit of Lisa Levin.

⁵ See Royal Ins. Co. of Am., 3 F.3d at 882.

5. The amount in controversy exceeds \$75,000 as indicated by the claims

asserted in Plaintiff's Second Amended Petition.⁶

6. The one-year statute of limitation on removal of diversity cases imposed

by 28 U.S.C. § 1446(b) does not prevent removal because this action was commenced

less than one year ago.

7. <u>Notice to State Court.</u> Pursuant to 28 U.S.C. § 1446(d), Defendant intends

to serve written notice of this removal on the state court promptly after filing this

Notice of Removal.

FOR THESE REASONS, Defendant hereby effectuates removal of this cause to

this Court.

Respectfully submitted,

/s/ Laura J. Grabouski

Laura J. Grabouski

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ATTORNEYS FOR DEFENDANT

⁶ See Exhibit E, Plaintiff's Second Amended Petition, paragraph 70 ("Plaintiff seeks monetary relief of more than \$1,000,000.").

CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the above and foregoing document was served on counsel of record below via electronic mail on January 12, 2017.

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/s/ Laura J. Grabouski
Laura J. Grabouski

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